

1 BEFORE THE FEDERAL ELECTION COMMISSION  
2 2009 DEC 17 PH 3:37

3 )  
4 In the State of )  
5 )

6 MUR 6175 )  
7 OBAMA VICTORY FUND )  
8 AND ANDREW TOBIAS, AS )  
9 TREASURER )

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

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11  
12 **GENERAL COUNSEL'S REPORT**

13 Under the Enforcement Priority System, matters that are low-rated

14  
15 are forwarded to the Commission with a recommendation for dismissal. The

16 Commission has determined that pursuing low-rated matters, compared to other higher-rated  
17 matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to  
18 dismiss these cases. The Office of General Counsel scored MUR 6175 as a low-rated matter.

19 In this matter, the complainant, Jane B. Freidson, states that on September 27, 2008,  
20 she made a \$500 online contribution to "Obama [Victory] Fund" ("OVF") and charged it to  
21 her credit card. She then received a confirmation email from the Obama for America  
22 ("OFA") committee thanking her for her \$5,000 contribution.<sup>1</sup> She immediately sent an  
23 email replying that she made a \$500 contribution, not a \$5,000 contribution. The  
24 complainant's credit card statement, however, showed that the "Obama Fund" charged her  
25 \$5,000. Freidson states that she contacted the Obama campaign (although she does not  
26 specify which committee she contacted, OVF or OFA) by email and telephone and was  
27 assured twice on the phone that a credit would be processed. She alleges that the Obama  
28 committee never processed the credit. She then requested a credit from the credit card

<sup>1</sup> On September 9, 2008, the complainant made a \$1,000 online contribution to OFA.

1 company, which it conditionally issued. On December 16, 2008, however, the credit card  
2 company notified Freidson that the full charge was being reinstated, because "the service has  
3 been received."

4 Freidson states that the Obama committee reported, in its disclosure reports, that she  
5 had made a \$1,300 donation. She requests that the FEC find out where the rest of the \$5,000  
6 went and secure a refund to her for \$4,500.

7 In response, the Obama Victory Fund and Andrew Tobias, as Treasurer  
8 ("respondents"), state that they did not knowingly process the complainant's contribution in  
9 an amount higher than intended. The respondents state that it was an error, which it  
10 corrected upon notification. Respondents attach a letter from the DNC dated March 24,  
11 2009, and a copy of a \$4,500 check payable to the complainant.

12 Respondents state that as a purported \$5,000 contribution, the OVF, a joint  
13 fundraising committee, allocated the contributions: \$1,300 to OFA (based on complainant's  
14 previous \$1,000 contribution to OFA) and \$3,700 to the Democratic National Committee.

15 It appears that the respondents initially processed and reported the contribution at  
16 issue incorrectly, as a \$5,000 contribution instead of a \$500 contribution. The error has now  
17 apparently been resolved and a refund has been issued. Therefore, in furtherance of the  
18 Commission's priorities and resources, relative to other matters pending on the Enforcement  
19 docket, the Office of General Counsel believes that the Commission should exercise its  
20 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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**RECOMMENDATIONS**

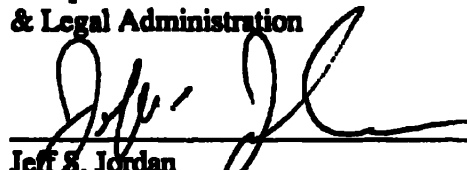
The Office of General Counsel recommends that the Commission dismiss  
MUR 6175, close the file, and approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

12/17/07  
Date

BY:

  
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